



Entered on Docket  
June 03, 2009

Bruce A. Marlow

**Hon. Bruce A. Markell  
United States Bankruptcy Judge**

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

## OPINION REGARDING AFFIDAVITS

This matter came for hearing on an Order to Show Cause on April 29, 2009 (dkt. #43). During the hearing, counsel moved for admission of the affidavits of Sean Claggett, Ron Hoy, and Arnulfo Castro-Silva, which were filed the day prior to the hearing. Hans Johns was given two weeks to review the declarations and file his objections, if any. Mr. Johns timely filed his objections (dkt. #66). The court stated that if an objection was timely filed, the court would consider it and enter a ruling on the admissibility of the affidavits (dkt. #70, p. 75). Further, the court stated that at the conclusion of the two week period, the matter would be deemed submitted and no further affidavits or declarations would be taken. *Id.*

Upon review of the pleadings and papers on file, the court orders that:

1. The affidavits of Sean Claggett, Ron Hoy, and Arnulfo Castro are admitted;
2. The declaration of Sean Claggett in Response to Hans Johns Objection to Declarations of Sean Claggett, Ron Hoy and Arnulfo Castro-Silva (dkt. #72) shall be stricken on the

1 grounds that it is untimely filed;<sup>1</sup> and

2 3. The declaration of Hans Johns in Response to Declaration of Sean Claggett (dkt. #74)  
3 shall be stricken on the grounds that it is untimely filed.

4 IT IS SO ORDERED.

5  
6 Copies sent to:

7 OGONNA M. ATAMOH on behalf of Creditor RON HOY  
8 oatamoh@nevadafirm.com, bkecf@nevadafirm.com; paltstatt@nevadafirm.com;  
sliberio@nevadafirm.com; rmoss@nevadafirm.com

9 ROBERT R. KINAS on behalf of Creditor GENERAL ELECTRIC CAPITAL CORPORATION  
10 AND GENERAL ELECTRIC CAPITAL BUSINESS ASSET FUNDING CORPORATION OF  
CONNECTICUT  
11 rkinas@swlaw.com, jmcbee@swlaw.com; jmath@swlaw.com; mfull@swlaw.com;  
cdossier@swlaw.com; lvdocket@mindspring.com; vcampbell@swlaw.com; nbaig@swlaw.com

12 RICHARD MCKNIGHT on behalf of Debtor CONSOLIDATED FOOD SERVICES, INC.  
13 mcknightlaw@cox.net, gkopang@lawlasvegas.com; cburke@lawlasvegas.com;  
mmcalonis@lawlasvegas.com

14 CHRISTINE A ROBERTS on behalf of Trustee YVETTE WEINSTEIN  
15 roberts@shlaw.com, hill@shlaw.com; vidovich@shlaw.com; mcallister@shlaw.com;  
stephens@shlaw.com; friddle@shlaw.com; stein@shlaw.com

16 U.S. TRUSTEE - LV - 7  
17 USTPRegion17.LV. ECF@usdoj.gov

18 YVETTE WEINSTEIN  
yweinsteinhsd@earthlink.net, NV08@ecfcbis.com

19 AUGUST B. LANDIS, via email courtesy copy to Augie.Landis@usdoj.gov

20 # # #  
21  
22  
23

24  
25 <sup>1</sup>In addition to being untimely filed pursuant to the court's instructions, this declaration is also procedurally  
improper as it includes requests for relief (dkt. #72 at ¶¶ 8-9). Further, in this circuit, bankruptcy courts are not "courts of  
the United States" for the purposes of 28 U.S.C. § 1927, and thus this court does not have the power to find Mr. Johns a  
vexatious litigant. *In re Perroton*, 958 F.2d 889, 891 (9th Cir. 1992) (citing *In re Memorial Estates*, 116 B.R. 108, 100  
(Bankr. N.D. Ill. 1990)).